

1 Jewell

2 B.A.T.'s material guidance committee.

3 What was B.A.T.'s material guidance
4 committee?

5 (Witness conferring with counsel.)

6 MR. SECREST: Let the record reflect
7 that the witness is having a conversation with
8 counsel.

9 MR. NICODEMA: Can we go off the
10 record for a moment?

11 MR. SECREST: I want an answer to this
12 question.

13 MR. NICODEMA: Let's go off the
14 record.

15 MR. SECREST: I don't want to go off
16 the record. I think it is a legitimate question.
17 I am entitled to an answer.

18 MR. NICODEMA: You will get an
19 answer. Let's just go off the record for a
20 moment.

21 MR. SECREST: I don't want to go off
22 the record with a pending question. It is
23 improper.

24 MR. NICODEMA: Can I have the question
25 back.

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2 (The record was read.)

3 (Counsel conferring with the witness.)

4 MR. SECREST: Let the record reflect
5 that counsel is speaking to the witness.

6 A My memory is that this is a group that
7 was responsible for guiding the company's use of
8 various materials in the manufacturing process.

9 MR. NICODEMA: Now let's go off the
10 record for a second.

11 (Discussion off the record.)

12 (Counsel conferring.)

13 Q B.A.T.'s material guidance committee
14 was part of some company outside of B&W; right?

15 A Correct.

16 Q Was it in the U.K.?

17 A Yes.

18 Q Was it at GR&DC?

19 A I am not sure.

20 Q Was it part of BATCO Ltd.?

21 A I am not sure.

22 Q It was some part of B.A.T. Industries;
23 is that fair?

24 A Correct.

25 Q Did Brown and Williamson have a

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2 representative on the material guidance committee?

3 A I don't know.

4 Q Who would know the answer to that
5 question, do you think?

6 MR. NICODEMA: Don't speculate. Just
7 give him your best information.

8 A I really don't know.

9 Q Well, if you are back at home in Macon
10 tomorrow and you wanted to find out, who would you
11 ask?

12 A I guess I would start in R&D.

13 Q With whom?

14 A Mr. Reynolds.

15 Q Lance Reynolds?

16 A Correct.

17 Q I show you what has previously been
18 marked as Defendant's Deposition Exhibit 106 for
19 identification.

20 Did you receive a copy of that
21 document?

22 A Not that I recall.

23 Q Your name is shown for a copy; right?

24 A Correct.

25 Q You probably got it; right?

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2 A Most likely.

3 Q Do you know M. Garcia?

4 A No.

5 Q How about D. Waxenburg, at the bottom
6 of the right-hand column?

7 A No.

8 Q Do you know what "GDB" stands for?

9 A No.

10 Q Is that the initials of B&W's
11 advertising agency?

12 A I don't know.

13 Q Have you ever dealt with B&W's
14 advertising agency?

15 A No.

16 Q Would you turn to the next page,
17 please, which says "moisture and conditioned
18 storage tests."

19 Did you work on those tests?

20 A I don't recall.

21 Q Was there some concern at Brown and
22 Williamson with relation to the moisture content
23 of Capri cigarettes?

24 A Yes.

25 Q What was that concern?

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2 A That since there was less tobacco in
3 the pack, a pack of cigarettes tended to dry out
4 faster or have a shorter shelf life.

5 Q Did you run tests to prove or to
6 disprove that thesis?

7 A Yes.

8 Q What was the result of those tests?

9 A We found Capri to have a shorter shelf
10 life than other cigarettes.

11 Q How much shorter?

12 A Roughly half.

13 Q What is the shelf life of other
14 cigarettes?

15 A That's somewhat difficult to answer.
16 There is a lot of debate within the
17 company as to what "shelf life" means or how to
18 define it.

19 Q Well, you used the term a couple of
20 times in your answer and you said Capri had a
21 shelf life roughly half of other cigarettes and
22 you must have had some kind of benchmark for that
23 and I want to know what it was, whether it is
24 subject to debate or not. We may talk about that
25 in a minute. But first I want to know what you

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2 had in mind when you say Capri was half of it.

3 A In the terminology that I would use, I
4 normally think of Capri having a four-and-a-half
5 month shelf life compared to roughly nine months
6 for normal products or for products of a larger
7 circumference.

8 Q Does that shelf life translate into
9 higher product returns of Capri versus other,
10 bigger cigarettes?

11 A It can. But that's highly dependent
12 on other factors as well, such as distribution and
13 consumer takeaway.

14 Q What does "consumer takeaway" mean?

15 A Sales.

16 Q What is the return rate on Capri?

17 A I don't know.

18 Q What is the return rate on regular
19 size cigarettes?

20 A I don't know.

21 Q Do you know if there is any difference
22 between the two?

23 A I couldn't be certain.

24 Q This shorter shelf life of Capri, does
25 that cause B&W to handle the distribution of Capri

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2 differently from its other brands?

3 A I don't know.

4 Q Who at B&W is in charge of

5 distribution of Capri?

6 A The sales department.

7 Q Who is the boss of the sales

8 department?

9 A As of this date?

10 Q Let's start with that.

11 A Lanny Butler.

12 Q Who is it now?

13 A I am not sure.

14 Q Has Mr. Butler left that job?

15 A Yes.

16 Q Has he left the company?

17 A Yes.

18 Q Where is he now?

19 A I don't know.

20 Q Did he retire?

21 A Yes.

22 Q Did he take other employment when he

23 retired?

24 A I don't know.

25 Q In manufacturing, because of this

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2 shelf life difference, do you do anything
3 differently to the tobacco in Capri as compared to
4 your other products?

5 A Yes.

6 Q What do you do differently?

7 A We produce the tobacco with a slightly
8 higher moisture content.

9 Q How much higher?

10 A On the order of a half to 1 percent.

11 Q What is your normal target for
12 full-size brands?

13 A It is on the order of 13, 14 percent.

14 Q Do you remember a few years ago we had
15 this debate about different ways to measure
16 moisture, and I think we established your way
17 comes out with a higher reading than Philip
18 Morris's way. Do you remember all that?

19 A I am afraid I don't.

20 Q Okay. Let me ask you this.

21 Do you, B&W, still use the same
22 moisture test methodology that you used in 1985?

23 MR. NICODEMA: Meaning as of the end
24 of May '89.

25 A I am not sure.

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2 Q Do you recall the methodology changing
3 any?

4 A Yes.

5 Q When?

6 A I can't be certain.

7 Q How did it change?

8 A Newer ovens were installed.

9 Q But as far as the temperature and the
10 time that you exposed the sample in the oven, has
11 that remained the same?

12 A I don't know.

13 Q Is the QC department under you in
14 Macon?

15 A No.

16 Q I show you what has previously been
17 marked as Defendant's Exhibit 61 for
18 identification.

19 Did you get a copy of this document?

20 A I don't recall.

21 Q You are shown to get a copy; right?

22 A Correct.

23 Q Any reason to doubt that you got it?

24 A No.

25 Q What was the Capri expansion steering

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2 committee?

3 A I don't recall.

4 Q Were you a member of that committee?

5 A I don't recall.

6 Q Do you recall anything having to do
7 with Capri expansion around this time frame?

8 A No.

9 Q You might look at item 14 on the next
10 page. What was Shorewood's inspection
11 capability?

12 You apparently were supposed to
13 investigate?

14 A This had to do with their ability to
15 inspect material from -- materials from visual
16 defects.

17 Q Who do you mean by that, Shorewood?

18 A Correct.

19 Q Who was Shorewood?

20 A They were a supplier of materials.

21 Q Packing materials?

22 A Correct.

23 Q Did you conduct this investigation?

24 A I don't recall.

25 Q Did you conduct a collaborative

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2 development between Shorewood and B&W for the
3 vision inspection system?

4 A No.

5 Q Who was LTH?

6 A Tom Haag.

7 Q H-a-a-g?

8 A Correct.

9 Q Did he work for you?

10 A No.

11 Q For whom did he work?

12 A Harry Roeder.

13 Q Did he conduct this investigation of
14 Shorewood's inspection capability?

15 A I don't recall.

16 Q Did he do any collaborative
17 development between Shorewood and B&W?

18 A Not to my knowledge.

19 Q The next page, item 28, actually it is
20 two pages over, I'm sorry. Is that JRM? Is that
21 Mr. Myhand?

22 A Correct.

23 Q Were you and Mr. Myhand together
24 supposed to define a start-up team for Capri
25 machinery?

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2 A It would appear that way from this
3 entry.

4 Q Did you do that?

5 A I don't recall.

6 Q What is the start-up team for
7 machinery?

8 A The people in support services needed
9 to carry out first production on the piece of
10 machinery.

11 Q Is this to teach operators how to run
12 the machine or is it for some other purpose?

13 A For some other purpose.

14 Q What was the other purpose?

15 A To start up a new product for the
16 first time.

17 Q Did you train operators on these Capri
18 machines?

19 A Can you define "you"?

20 Q "You," B&W.

21 A Yes.

22 Q Did you have any role in that?

23 A I don't recall.

24 Q What did these people have to be
25 taught different from what the person would be

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1 Jewell

2 taught to run an ordinary making machine?

3 A I don't know.

4 Q Is there any difference between
5 operating a Capri machine and a regular making
6 machine?

7 A I would have trouble saying one way or
8 the other.

9 Q I take it you have never operated
10 either; is that right?

11 A That's correct.

12 MR. SECREST: I ask the reporter to
13 mark, as Defendant's Deposition Exhibit 265 for
14 identification, a document dated March 6, 1987
15 bearing production Nos. BWT95-061 to 063.

16 (Whereupon, document above referred to
17 was marked as Defendant's Exhibit 265 for
18 identification, as of this date.)

19 Q Dr. Jewell, did you receive a copy of
20 Exhibit 265? And I will note for you that your
21 name appears on the distribution list on page 3.

22 A I don't recall.

23 Q Have you got any reason to doubt that
24 you got it?

25 A No.

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2 Q Were you a member of the operating
3 committee?

4 A I have been.

5 Q Is this the committee that you told me
6 yesterday had ceased to exist?

7 A Yes.

8 Q And at one time it was kind of an
9 advisory group for Mr. Sandefur; is that right?

10 A Correct.

11 Q There is some new names on the front
12 page I am going to ask you about. The first one
13 is Heger.

14 Who is that?

15 A Carl Heger.

16 Q What was his job?

17 A He was vice president of finance.

18 Q How about Anders?

19 A That's Jerry Anders. I am not -- you
20 are asking about --

21 Q Who was Jerry Anders?

22 A I am not sure what his role was at
23 this time.

24 As a matter of fact, seeing Jerry's
25 name reminds me that the answer I gave you on Tom

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1 Jewell

2 Haag may have been in error before.

3 Q What did you tell me about Haag
4 before?

5 A That he reported to Harry Roeder. I
6 may be wrong about that, so....

7 Q Okay. I don't think the world is
8 going to end if that answer was wrong, so....

9 Who was Mr. Lowdenback?

10 A Vice president of human resources.

11 Q How about Mr. H. Pague?

12 A I don't recall what his role was at
13 this time.

14 Q Does he still work for the company?

15 A No.

16 Q Is he retired?

17 A Yes.

18 Q Would you look at paragraph 6 on the
19 second page.

20 I read that and it looked to me like
21 you were at the meeting and were asked to do
22 something. But on the first page, it doesn't list
23 you as being an attendee.

24 Were you at this meeting?

25 A I don't recall.

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2 Q Does "SOM" stand for share of market?

3 A Yes.

4 Q Did you present a contingency plan for
5 a speeded up 1-1/2 share of market?

6 A Yes.

7 Q What was that plan?

8 A It involved appropriate equipment to
9 be able to produce 1-1/2 share of market for
10 Capri.

11 Q Has Capri ever achieved 1-1/2 share of
12 market?

13 A Not to my knowledge.

14 Q What is the highest it ever got?

15 A I am not sure.

16 Q Did it ever even reach 1?

17 A I am not sure.

18 Q Would you look at the next page,
19 please.

20 With reference to this paragraph 10,
21 what was the role of BATUS in the Capri project?

22 A BATUS was responsible for approving
23 major operating plans of B&W.

24 Q Who at BATUS had to give that
25 approval?

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2 A Hank Frigon.

3 Q Excuse me?

4 A Hank Frigon.

5 Q Was he the president of BATUS?

6 A I am not sure what his exact title
7 was.

8 Q This contingency plan that you gave
9 for a 1-1/2 share of market, did you implement
10 that?

11 A Yes.

12 MR. SECREST: I ask the reporter to
13 mark, as Defendant's Deposition Exhibit 266 for
14 identification, a document dated March 13, 1987,
15 bearing production Nos. BWT103-073 through 076.

16 (Whereupon, document above referred to
17 was marked as Defendant's Exhibit 266 for
18 identification, as of this date.)

19 (Discussion off the record.)

20 Q Did you receive a copy of this
21 document?

22 A I don't recall.

23 Q Were you at this meeting?

24 A I don't recall.

25 Q You are shown for a copy; right?

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1 Jewell

2 A Yes.

3 Q Do you think you probably got it?

4 A Yes.

5 Q On the first page, it says you and
6 some other fellows led the committee through
7 alternative plans.

8 Does that indicate to you that you
9 were at the meeting?

10 A It sounds very likely.

11 Q Would you look at the next page, down
12 toward the bottom. The third bullet up from the
13 bottom says: "BWT taking first claim on four
14 German and four Swiss machines."

15 "BWT" is Brown and Williamson; right?

16 A Correct.

17 Q Who is this first claim against?

18 A I don't recall.

19 Q What were these machines that you were
20 getting -- or taking first claim on?

21 A I don't recall.

22 Q Did they have to do with Capri?

23 A I don't recall.

24 Q If you look up at the top, this whole
25 first paragraph talks about a speeded up plan, and

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1 Jewell

2 the third bullet there says: "Requires usurping
3 machines destined for Germany and Switzerland."

4 Do you see where I am reading that?

5 A Yes.

6 Q Do you understand that to mean a
7 diversion of machines that otherwise would have
8 gone to B.A.T. Industries companies in Germany and
9 Switzerland?

10 A Yes.

11 Q Did that happen?

12 A I don't recall.

13 (Recess taken.)

14 Q Dr. Jewell, I hand you a copy of what
15 has been previously marked as Defendant's
16 Deposition Exhibit 71 for identification.

17 Did you get a copy of that document?

18 A I don't recall.

19 Q You are listed for a copy; right?

20 A Correct.

21 Q Any reason to doubt that you received
22 your copy?

23 A No.

24 Q Did you attend the meeting that is
25 reported in this document?

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1 Jewell

2 A I don't recall.

3 Q You are listed as being present;
4 right?

5 A Correct.

6 Q Any reason to doubt that you attended?

7 A No.

8 Q Who is Mr. Beck?

9 A Roger Beck.

10 Q He worked for B.A.T.?

11 A Correct.

12 Q Which tentacle of B.A.T. does he work
13 for?

14 A Machinery services.

15 Q Is that B.A.T. Industries? Or some
16 subordinate company under industries?

17 A I am not sure.

18 Q Is he in GR&DC?

19 A I am not sure.

20 Q Is he from Southampton?

21 A No.

22 Q From Liverpool?

23 A No.

24 Q Where is he from?

25 A Millbank.

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1 Jewell

2 Q Why was Mr. Beck an attendee at this
3 meeting?

4 A I don't recall.

5 Q Did B&W work with people from B.A.T.
6 on development of Capri?

7 A Yes.

8 Q What was the nature of that work with
9 B.A.T. on Capri?

10 A It was necessary to coordinate
11 equipment requirements within the group for Capri
12 products.

13 Q Was it desirable that B&W and Germany,
14 Switzerland, B.A.T. companies all use the same
15 machines?

16 Maybe I should say same type of
17 machines.

18 A No.

19 Q What was the objective of coordination
20 regarding machinery, then?

21 A To deal with issues when there were
22 conflicts.

23 Q Was there any effort made to eliminate
24 conflicts rather than just deal with issues when
25 conflicts arose?

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1 Jewell

2 A I don't recall.

3 Q Did you deal with people from B.A.T.
4 on machinery? You personally I mean.

5 A I don't recall.

6 Q Would you look at the last page of the
7 document, please.

8 The second sentence refers to B.A.T.
9 UK&E providing an HLP1 operator trainer.

10 My first question is, what is an "HLP1
11 operator trainer"?

12 A Someone to train operators on HLP1
13 operation.

14 Q What is "HLP1 operation"?

15 A Running an HLP1.

16 Q What is an "HLP1"?

17 A It is a hinge lid packer.

18 Q Is this a machine to be used for
19 packing Capri cigarettes?

20 A I am not sure.

21 Q Did B.A.T. UK&E, in fact, provide this
22 person to B&W?

23 A I don't recall.

24 Q Did this person come under your
25 jurisdiction at Macon?

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1 Jewell

2 A I'm sorry, which person?

3 Q Let me ask it this way.

4 Had the person been provided, would
5 that person have fallen within your jurisdiction?

6 A No.

7 Q Under whose jurisdiction would that
8 person have been?

9 A Training.

10 Q And who was the individual in charge
11 of that back at this time, April '87?

12 A I don't recall.

13 MR. SECREST: I ask the reporter to
14 mark, as Defendant's Deposition Exhibit 267 for
15 identification, a document dated April 3, 1987,
16 bearing production Nos. BWT103-066 to 068.

17 (Whereupon, document above referred to
18 was marked as Defendant's Exhibit 267 for
19 identification, as of this date.)

20 Q Did you receive a copy of that
21 document?

22 A I don't recall.

23 Q Your name is shown for a copy. Do you
24 think you got it?

25 A Very likely.

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1 Jewell

2 Q Referring now to paragraph Arabic 1,
3 what is an "Ltd. index"?

4 A I don't know.

5 Q Looking at the third paragraph under
6 Arabic 1, it talks about some Capri packers
7 assigned to BATCO being diverted to Macon.

8 Did that happen?

9 A I m sorry, where are you?

10 Q The third paragraph, under Arabic 1,
11 it starts out: "Mr. Sandefur informed."

12 A I don't recall.

13 Q Did you plan a place to put those
14 machines, like Mr. Sandefur asked you to?

15 A I don't recall.

16 RQ MR. SECREST: Counsel, in the middle
17 of that paragraph, at the line that starts on the
18 left-hand margin "if the high speed packer," do
19 you see where I am reading?

20 MR. NICODEMA: Yes.

21 MR. SECREST: After the word "on,"
22 there is a big gap.

23 The sentence doesn't make sense with
24 that gap in there, and I would just ask if you
25 would advise us has something been redacted or

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2 maybe this is the way the document was made
3 originally.

4 If you could check that out sometime
5 and let us know, I would appreciate it.

6 MR. NICODEMA: We will look into that
7 and let you know.

8 Q Down a couple of paragraphs,
9 Dr. Jewell, there is a reference to "Sabre." Do
10 you see that?

11 A Yes.

12 Q What was "Sabre"?

13 A I don't recall.

14 MR. SECREST: I ask the reporter to
15 mark, as Defendant's Deposition Exhibit 268 for
16 identification, a document dated April 24, 1987,
17 bearing production Nos. BWT103-062 to 065.

18 (Whereupon, document above referred to
19 was marked as Defendant's Exhibit 268 for
20 identification, as of this date.)

21 Q Did you receive a copy of that
22 document, Dr. Jewell?

23 I will note your name appears on the
24 distribution list.

25 A I don't recall.

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2 Q Any reason to doubt that you got it?

3 A No.

4 Q Would you look at page 3 or, actually,
5 it is numbered 4, it is the third page but it has
6 No. 4 at the top.

7 Paragraph D talks about test marketing
8 of a dual-audience slim cigarette.

9 What is a "dual-audience slim
10 cigarette"?

11 A One that appeals to both male and
12 female.

13 Q Was this test marketing carried out?

14 A I don't know.

15 Q Does B&W now sell a dual-market slim
16 cigarette -- May 30th, 1989?

17 A I am not sure.

18 Q What is the difference in a
19 dual-audience slim cigarette and a regular old
20 Capri?

21 A I don't know.

22 Q Put it in a macho pack or something?

23 A I don't know.

24 Q The next paragraph talks about a
25 male-oriented slim cigarette.

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1 Jewell

2 Was that item test-marketed?

3 A I don't recall.

4 Q As of May 30, 1989, did B&W sell a
5 male-oriented slim cigarette?

6 A I am not sure.

7 Q What is the difference between a
8 male-oriented slim cigarette and a regular old
9 Capri?

10 A I don't know.

11 Q What is the difference between a
12 male-oriented slim cigarette and a regular old
13 Virginia Slims?

14 A I don't know.

15 Q Is there any difference?

16 A I don't know one way or the other.

17 Q You know what a Virginia Slims is;
18 don't you?

19 A Yes.

20 Q Is there any difference between a
21 Virginia Slims and a dual-audience slim cigarette?

22 A I don't know.

23 You are well beyond my level of
24 expertise in these matters.

25 Q How many different models of Capri did

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1 Jewell

2 B&W make as of May 30, 1989?

3 A I don't recall.

4 Q More than one?

5 A Yes.

6 Q How many?

7 A I am not sure.

8 Q Name for me the ones you can
9 remember.

10 A There is both a menthol and
11 non-menthol version of Capri.

12 THE WITNESS: I want to make sure I
13 don't answer this incorrectly.

14 Could you reread his question for me
15 again, please.

16 (A portion of the record was read.)

17 A Those are the only two I can be sure
18 of as of that date.

19 Q Were both of those that you mentioned
20 120 millimeter lengths?

21 A No.

22 Q Were they 100 millimeter lengths?

23 A Nominally.

24 Q As of this date, did you make any
25 Capris in other a hundred millimeter length?

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2 A I don't recall.

3 MR. SECREST: I ask the reporter to
4 mark, as Defendant's Deposition Exhibit 269 for
5 identification, a document dated May 12, 1987,
6 bearing the production number BWH103-114.

7 (Whereupon, document above referred to
8 was marked as Defendant's Exhibit 269 for
9 identification, as of this date.)

10 Q Did you receive a copy of this
11 document?

12 A I don't recall.

13 Q You were shown for a copy of it;
14 right?

15 A Correct.

16 Q Any reason to doubt that you got it?

17 A Yes.

18 Q Let's hear it.

19 A It is not signed, which is normally
20 the case when it issues.

21 Q Have you ever received a document at
22 B&W that wasn't signed?

23 A Not normally.

24 Q Who is RTL? Is that Mr. Lewis?

25 A Correct.

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2 Q Did he always sign his documents?

3 A As a general rule.

4 Q Let me ask you this. Is it possible
5 that the copy from which this was made, so that
6 your lawyers could give it to us, came out of
7 Mr. Lewis's own file? Hence, perhaps, it is not
8 signed?

9 Does that make sense?

10 MR. NICODEMA: Don't speculate. If
11 you know, if you have information, give it to
12 him.

13 A I really don't know what Mr. Lewis's
14 practices are.

15 Q You sign the copy of documents that
16 you write that you put in your own file?

17 A I don't keep a copy or a file of my
18 own documents.

19 Q Does anybody keep a copy for you of
20 your documents?

21 A They would be in the general
22 engineering files.

23 Q You consider that your file, also?

24 A No.

25 Q Where is your file, then?

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2 A I am not sure I am following the
3 semantics, but I take you to mean files that are
4 in my office that I use on a day-to-day basis.

5 Q No, that's not what I meant really.

6 What I am trying to get at is, where
7 is your file copy of your documents you wrote
8 kept, and if it is in this general engineering
9 file -- is that the case?

10 A I don't know.

11 Q You don't know where your file copy of
12 documents goes?

13 A No.

14 Q Do you have a secretary?

15 A Yes.

16 Q Is she supposed to maintain a record
17 of your correspondence for you?

18 A Yes.

19 Q Where does she keep that?

20 A I am not sure.

21 Q Have you ever gone to look for a
22 letter that you wrote in the past?

23 A Yes.

24 Q Where did you look for it?

25 A I usually can't find them. I have my

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1 Jewell

2 secretary find them for me.

3 Q Where does she go look for them?

4 A I am not sure.

5 Q Well, wherever it is that she goes and
6 looks for them, when she finds your copy of
7 something you wrote in the past, is it signed?

8 A I don't know.

9 Q Well, enough of that.

10 Back to this piece of paper we were
11 looking at, (indicating), did Mr. Strubel conduct
12 subjective assessments of the differentiability of
13 small circumference cigarettes? Back in the
14 spring of '87.

15 A I don't know.

16 Q Did Strubel work for you at this time?

17 A No.

18 Q Was he still back in Kentucky?

19 A Yes.

20 Q In RD&E?

21 A No.

22 Q Did RD&E still exist then?

23 A No.

24 Q What group was he in at the time?

25 A R&D.

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2 Q The "E" part moved to Macon with you;
3 right?

4 A Correct.

5 Q Have you ever heard of Mr. Strubel
6 conducting subjective assessment of the
7 differentiability of small circumference
8 cigarettes?

9 A I don't recall.

10 Q Do you have any idea why he was doing
11 this?

12 A No.

13 Q Who was J.W. Sullivan?

14 A He was a project person in either R&D
15 or engineering at this time.

16 Q Was he in Macon or Louisville?

17 A Louisville.

18 Q Was he like a model builder?

19 A No.

20 Q What do you understand to be a visual
21 mock-up of 97-millimeter Capri?

22 A Something that looks like Capri, in 97
23 millimeters, these different sizes of
24 circumference.

25 Q Visual mock-up, would that imply to

170322243

1 Jewell

2 you a picture or an actual three-dimensional
3 object?

4 A An object.

5 Q Have you ever seen visual mock-ups of
6 this sort at B&W?

7 A I don't recall.

8 Q Who was E.T. Cullen?

9 A He was a project person in the
10 machinery group.

11 Q Did he work with Mr. Sullivan on
12 projects?

13 A From time to time.

14 Q What was Mr. Strubel's job in May of
15 '87?

16 A I am not sure.

17 Q Where does he work now?

18 A He is currently housed in Louisville
19 and his retirement is this week, I think.

20 Q No kidding; are you going to it?

21 A Unfortunately, not. I am here.

22 Q His retirement is when, this weekend?

23 A I think that's right.

24 Q Are you going to throw a big party for
25 him? Give him my regards.

170322244

1 Jewell

2 (Discussion off the record.)

3 MR. SECREST: I ask the reporter to
4 mark, as Defendant's Deposition Exhibit 270 for
5 identification, a document dated May 29, 1987,
6 bearing production Nos. BWT103-053 to 055.

7 (Whereupon, document above referred to
8 was marked as Defendant's Exhibit 270 for
9 identification, as of this date.)

10 Q Did you receive a copy of that
11 document, Dr. Jewell?

12 A I don't recall.

13 Q You are shown for a copy on the last
14 page; right?

15 A Correct.

16 Q Any reason to doubt that you got it?

17 A No.

18 Q You just said you got no reason to
19 doubt that you got this document.

20 But it ain't signed either; is it?

21 A Thank you for pointing that out to me,
22 I guess I do.

23 Q I think you were probably right the
24 first time.

25 Would you look at that last page which

170322245

1 Jewell

2 has no signature on it but despite which you said
3 you didn't doubt you got the document.

4 It refers to Ultra Slim Barclay
5 Lights.

6 Do you see that?

7 A Yes.

8 Q Did B&W make an Ultra Slim Barclay
9 Light?

10 A I believe we did.

11 Q And you test marketed it; right?

12 A I don't recall if it was a Lights, but
13 there was an Ultra Slim Barclay.

14 Q That went to test market; right?

15 A Correct.

16 Q It failed in test market; right?

17 A Not to my knowledge.

18 Q Are you selling it?

19 A No.

20 Q Did you expand the test market?

21 A No.

22 Q Did you withdraw it from test market?

23 A Yes.

24 Q Doesn't that sound like failure?

25 A No.

170322246

1 Jewell

2 Q It does in my book.

3 What was Mr. Whitehair's group?

4 A Marketing.

5 Q What particular group within marketing
6 or was it all of marketing?

7 A I don't recall.

8 Q Was Whitehair the chief of marketing
9 back at this time?

10 A I can't be sure.

11 MR. SECREST: I ask the reporter to
12 mark, as Defendant's Deposition Exhibit 271 for
13 identification, a document dated June 12, 1987
14 bearing production Nos. BWT103-051 and 052.

15 (Whereupon, document above referred to
16 was marked as Defendant's Exhibit 271 for
17 identification, as of this date.)

18 Q Did you receive a copy of this
19 document, Dr. Jewell?

20 A I don't recall.

21 Q Did you attend this meeting?

22 A I don't recall.

23 Q You are shown as attending the
24 meeting; right?

25 A Correct.

170322247

1 Jewell

2 Q Any reason to doubt that you were
3 there?

4 A No.

5 Q According to this document, you
6 reported to the committee on a process to reclaim
7 Capri shorts.

8 Did you do that?

9 A I don't recall.

10 Q What is the percent shorts on Capri?

11 A I don't recall.

12 Q What is the percent shorts on regular
13 full circumference brands at B&W?

14 A I don't recall.

15 Q Is the percentage shorts on Capri the
16 same as, more, or less than the percentage shorts
17 on regular full circumference brands?

18 A I don't recall.

19 Q Is the reclamation of shorts something
20 within your bailiwick at Macon?

21 A The process development of reclaim
22 would be.

23 Q The actual carrying out of reclamation
24 is somebody else's responsibility; is that right?

25 A Correct.

170322248

1 Jewell

2 Q Did you develop some process for Capri
3 shorts reclamation?

4 A Yes.

5 Q Is it any different from reclamation
6 of shorts from regular circumference brands?

7 A Yes.

8 Q In what way?

9 A The screens that are used to separate
10 the paper from the tobacco are of a different
11 specification.

12 Q What is the difference in the spec?

13 A This is not a complete set of
14 specification differences, but one would be a
15 smaller screen size.

16 Q Is Capri the smaller screen size?

17 A Correct.

18 Q Is that a function of the fact that
19 Capri is reduced circumference and, hence, reduced
20 amount of paper?

21 A No.

22 Q Why is it a smaller screen size?

23 A To keep the filters from falling
24 through into the good tobacco.

25 MR. SECREST: I ask the reporter to

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1 Jewell

2 mark, as Defendant's Deposition Exhibit 272 for
3 identification, a document dated June 26, 1987,
4 and bearing production No. BWT103-094.

5 (Whereupon, document above referred to
6 was marked as Defendant's Exhibit 272 for
7 identification, as of this date.)

8 Q Did you receive a copy of that
9 document?

10 A I don't recall.

11 Q Your name appears for a copy.
12 Do you have any doubt that you
13 received it?

14 A Only that, again, this is unsigned
15 which is not normally our procedure.

16 Q This FOB that is referred to in
17 subject, is that, again, flip-open box?

18 A Yes.

19 Q Does this person, Trebilcock, work for
20 you?

21 A No.

22 Q Do you know why Trebilcock was asking
23 for three handmade samples of 115-millimeter FOB
24 packs?

25 A No.

170322250

1 Jewell

2 Q Has B&W ever made a 115-millimeter
3 Capri cigarette?

4 A I am not sure.

5 Q Do you have any information on that
6 subject at all?

7 A I recall that both were considered.

8 Q That what?

9 A That both sizes were considered at one
10 time.

11 Q You confused me there because I only
12 mentioned one, 115.

13 What was the other one you had in
14 mind?

15 A That both 115- and 120-millimeter
16 products were considered at one time for Capri.

17 Q Were either of those sizes ever
18 brought to market?

19 A Yes.

20 Q Which one?

21 A 120.

22 Q Are you selling them now?

23 A Yes.

24 MR. SECREST: I ask the reporter to
25 mark, as Defendant's Deposition Exhibit 273 for

170322251

1 Jewell

2 identification, a document dated June 29, 1987,
3 bearing production No. BWT21-061.

4 (Whereupon, document above referred to
5 was marked as Defendant's Exhibit 273 for
6 identification, as of this date.)

7 Q Did you receive that document?

8 A I don't recall.

9 Q It is addressed to you; isn't it?

10 A Correct.

11 Q Do you have any reason to doubt that
12 you received it?

13 A No.

14 Q This 115-millimeter Capri line
15 extension that is discussed here, was that
16 cigarette built?

17 A What do you mean by "built"?

18 Q Fabricated.

19 A I don't know.

20 Q Do you recall any test marketing of a
21 115-millimeter cigarette?

22 A Not that I can recall.

23 Q Dr. Jewell, I am going to hand you a
24 document that my colleague tells me was previously
25 marked as Defendant's Exhibit 53.

170322252

1 Jewell

2 It looks to me like that's the same
3 cover memo with some additional comments on it as
4 we just looked at in 273, and then there is some
5 attachments; right?

6 A Yes.

7 Q I am looking now at the last couple of
8 pages, and there is a reference to "Wizard
9 electronic mail system."

10 Can you tell me what that is?

11 A That's Brown and Williamson's
12 electronic mail system.

13 Q Is that some way you can zap messages
14 back and forth around B&W?

15 A It is a way to electronically transfer
16 messages from one terminal to another.

17 Q Zap?

18 A Okay.

19 Q On the next-to-last page, by "DIST,"
20 (indicating), there is several groupings of four
21 letters.

22 Can you tell me what those stand for?

23 A People's names.

24 Q Is the first one you?

25 A That's correct.

170322253

1 Jewell

2 Q "JOJE," is that your code in the
3 electronic mail system?

4 A No.

5 Q What is it?

6 A It represents the first two letters of
7 my first and last name.

8 Q Right. I figured that one out.

9 Is it some kind of code for you?

10 A Well, that's one of the ways that mail
11 gets routed to you.

12 Q Does this electronic mail, the last
13 two pages here, have to do with this
14 115-millimeter proposal?

15 A I am not sure I am clear on what you
16 mean by the "115-millimeter proposal"; both
17 reference 115-millimeter product.

18 Q Okay. Is there any other way that
19 wizard mail is routed to you other than JOJE?

20 A Yes.

21 Q What other way?

22 A J. Jewell.

23 Q Any other way?

24 A Not that I am aware of.

25 Q Is there any permanent storage

170322254

1 Jewell

2 facility at B&W for wizard mail?

3 A Not that I am aware of.

4 Q No system like the E-mail that caught
5 Ollie North in the White House?

6 A Not that I am aware of.

7 MR. SECREST: I ask the reporter to
8 mark, as Defendant's Deposition Exhibit 274 for
9 identification, a document dated July 13, 1987,
10 bearing production Nos. BWT21-077 and 078.

11 (Whereupon, document above referred to
12 was marked as Defendant's Exhibit 274 for
13 identification, as of this date.)

14 Q Did you receive a copy of that
15 document?

16 A I don't recall.

17 Q You are shown for a copy; right?

18 A Correct.

19 Q Do you have any reason to doubt that
20 you got it?

21 A No.

22 Q Would you look at the second page,
23 please.

24 There are numbers there of projected
25 capacity needs of ultra slim cigarettes; right?

170322255

1 Jewell

2 A Yes.

3 Q Under the heading Capri, there is
4 Capri parent and Capri line extension; right?

5 A Correct.

6 Q Is Capri parent the regular Capri
7 cigarette basic model? If you can call it that.

8 A My understanding, it is the nominal
9 100-millimeter version.

10 Q What was "Capri line ext."?

11 A Some line extension of Capri.

12 Q What was that to be in '88 and '89?

13 A I am not sure.

14 Q In '88, this projected capacity need,
15 as I read this, was about 5 billion cigarettes.

16 Is that right?

17 MR. NICODEMA: Can I have that back
18 again.

19 (The record was read.)

20 Q I am looking at the line that says
21 Total Capri, not down at the bottom, Total Ultra
22 Slim. I am looking at Total Capri.

23 A Well, again, interpreting as we read
24 this here, that would be my interpretation, as
25 well, at this time.

170322256

1 Jewell

2 Q How many did you really make in 1988?

3 A I don't recall.

4 Q Was it 5.054 billion?

5 A I don't know.

6 Q Was it anywhere close to that?

7 A I don't know.

8 Q Well, out of all the ones you made in
9 '88, what percentage of them did you sell?

10 A I don't know.

11 Q What percentage of them did you give
12 away?

13 A I don't know.

14 Q What percentage of them got returned
15 to the factory?

16 A I don't know.

17 Q Would you look down there at
18 Assumption No. 1.

19 What do you understand that to mean?

20 A I don't know.

21 Q Do you know what the term
22 "cannibalization" means?

23 A Yes.

24 Q What does that mean?

25 A In the context of cigarette sales,

170322257

1 Jewell

2 taking sales away from existing products.

3 Q It seems to me like, correct me if I
4 am wrong, Assumptions 1 and 2 assume that line
5 extensions of Capri will have some cannibalization
6 effect on the Capri parent.

7 Is that a fair reading of those two
8 assumptions?

9 A I am not sure I can reconstruct how to
10 use those numbers.

11 Q Well, these first two assumptions talk
12 about the Capri parent getting cannibalized; don't
13 they?

14 A Yes, it mentions the cannibalization,
15 both lines.

16 Q Assumption No. 7, doesn't that
17 contradict what he said up here in 1 and 2?

18 A Like I said, I have trouble
19 reconstructing this document for you.

20 Q I am not asking you to reconstruct it.
21 You got a copy of it sometime on or
22 about July 13, 1987. I would like to know what
23 you understood the document to mean.

24 A I don't recall what my understanding
25 was as of that date.

170322258

1 Jewell

2 Q What do you understand it to mean now?

3 MR. NICODEMA: Now you are asking for
4 opinion, and I object.

5 Q Can you answer my question,
6 Dr. Jewell?

7 A I think I have done the best I can.

8 Q Dr. Jewell, I will hand you a copy of
9 what has been previously marked as Defendant's
10 Deposition Exhibit 148 for identification.

11 Did you receive a copy of that
12 document?

13 A I don't recall.

14 Q Your name is on it; right?

15 A Correct.

16 Q Any reason to doubt that you got it?

17 A No.

18 Q Does this document relate to that same
19 subject we discussed a few minutes ago, about the
20 moisture content in Capri?

21 A Yes.

22 Q Why was this test carried out?

23 A Well, reading from the objective here,
24 to find out if free water added to the Capri pack
25 would migrate to the tobacco.

170322259

1 Jewell

2 Q Was there consideration of adding
3 water into the pack to increase shelf life?

4 A Yes.

5 Q Was that done on a commercial basis?

6 A Not to my knowledge.

7 Q Instead, you went back earlier in the
8 process and raised the moisture content of the
9 blend; is that right?

10 A Yes.

11 Q Are these moisture studies that were
12 carried out shelf life considerations that delayed
13 the introduction of Capri to the market?

14 A I don't know.

15 Q If you wanted to know the answer to
16 that question, who would you ask?

17 A I am not sure.

18 Q No information on that at all?

19 A No.

20 MR. SECREST: I ask the reporter to
21 mark, as Defendant's Deposition Exhibit 275 for
22 identification, a document dated October 16, 1987,
23 bearing production Nos. BWT103-033, 034.

24 (Whereupon, document above referred to
25 was marked as Defendant's Exhibit 275 for

170322260

1 Jewell

2 identification, as of this date.)

3 Q Did you attend the meeting reported in
4 this document?

5 A I don't recall it.

6 Q You are listed here as an attendee;
7 right?

8 A Correct.

9 Q Do you have any reason to doubt that
10 you attended it?

11 A No.

12 Q What was Project CAPLITE?

13 A I don't recall.

14 Q Was it carried out under your
15 supervision?

16 A I don't recall.

17 Q Why were you reporting on it to this
18 operating committee?

19 A I don't recall.

20 Q Do you have any recollection
21 whatsoever of Project CAPLITE?

22 A No.

23 Q Do you recall any work done on putting
24 moisture into a filter?

25 A I recall that is something we talked

170322261

1 Jewell

2 about doing at one time.

3 Q Did you ever actually do it?

4 A I don't recall.

5 Q What about putting a salt solution in
6 the package? Did you ever do that?

7 A I remember some development work being
8 done on that.

9 Q Who did that work?

10 A Mr. Lewis's group.

11 Q What was the purpose of putting a salt
12 solution in the package?

13 A To extend shelf life.

14 Q In what way would a salt solution in
15 the package extend shelf life?

16 A It would provide an alternative source
17 of moisture in the pack.

18 Q Was the idea to impregnate the salt
19 solution into the package material?

20 A Yes.

21 Q Was that ever actually done?

22 A Yes.

23 Q Was it done commercially?

24 A Not that I recall.

25 Q Did the salt solution leach out of the

170322262

1 Jewell

2 package material into the cigarette?

3 A I don't recall.

4 Q Was that a concern?

5 A Yes.

6 Q Do you recall doing any studies on
7 that to determine whether or not that phenomenon
8 occurred?

9 A Yes.

10 Q What was the result of those studies?

11 A I don't recall.

12 MR. SECREST: Dr. Jewell, as you can
13 probably surmise from the little stack of paper I
14 have got left here, I didn't finish.

15 I am going to look at these papers and
16 see if I think it is worth our while to have
17 another session with you, and we will get back in
18 touch with your lawyer about that.

19 For now, we are adjourned.

20 (Continued on the following page.)

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I N D E X

<u>WITNESS</u>	<u>EXAMINED BY</u>	<u>PAGE</u>
John Nolan Jewell	Mr. Secrest	159

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EXHIBITS

DEFENDANT'S

<u>FOR IDENTIFICATION</u>	<u>PAGE</u>
254 One-page document dated April 4, 1984, bearing production No. BWM4-092	176
255 Copy of a multipage document, the front page is dated April 23, 1984, it bears production Nos. BWH11-137 through 146	177
256 Three-page document, bearing production Nos. BWH10-01 through 03	201
257 Document bearing production Nos. BWH10-15 through 17	202
258 Three-page document bearing production Nos. BWH10-18 through 20	203
259 One-page document bearing production No. BWH11-47, dated December 27, 1984	204

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EXHIBITS (Cont'd)

3	260	Copy of a document dated	
4		February 13, 1985, bearing production	
5		Nos. BWH11-111 through 114	206
6	261	Document dated February 25, 1986,	
7		bearing production Nos. BWM7-024	
8		through 029	213
9	262	Document, the first page of which bears	
10		the date December 3, 1985, and it includes	
11		production Nos. BWM8-012 through 022	222
12	263	Document dated September 3, 1986,	
13		bearing production Nos. BWM9-025	236
14		through 026	
15	264	Document bearing the date September 8,	
16		1986, and the production Nos.	
17		BWT110-161 through 163	240
18	265	Document dated March 6, 1987, bearing	
19		production Nos. BWT95-061 through 063	258
20	266	Document dated March 13, 1987, bearing	
21		production Nos. BWT103-073 through 076	262
22	267	Document dated April 3, 1987, bearing	
23		production Nos. BWT103-066 to 068	268
24	268	Document dated April 24, 1987, bearing	
25		production Nos. BWT103-062 to 065	270

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EXHIBITS (Cont'd)

3

269 Document dated May 12, 1987, bearing

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the production No. BWH103-114

274

5

270 Document dated May 29, 1987, bearing

6

production Nos. BWT103-053 to 055

280

7

271 Document dated June 12, 1987 bearing

8

production Nos. BWT103-051 and 052

282

9

272 Document dated June 26, 1987, and

10

bearing production No. BWT103-094

285

11

273 Document dated June 29, 1987, bearing

12

production No. BWT21-061

287

13

274 Document dated July 13, 1987, bearing

14

production Nos. BWT21-077 and 078

290

15

275 Document dated October 16, 1987, bearing

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production Nos. BWT103-033 and 034

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REQUEST FOR DOCUMENT

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1
2 STATE OF NEW YORK)
3)
4 COUNTY OF NEW YORK)
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6 I, WENDY D. BOSKIND, a Notary
7 Public of the State of New York, do hereby certify that
8 the foregoing deposition of JOHN NOLAN JEWELL
9 was taken before me on the 27th day of March,
10 1991.

11 The said witness was duly sworn before the
12 commencement of his testimony; that the said testimony
13 was taken stenographically by myself and then
14 transcribed.

15 The within transcript is a true record of
16 the said deposition.

17 I am not connected by blood or marriage
18 with any of the said parties, nor interested directly
19 or indirectly in the matter in controversy, nor am I
20 in the employ of any of the counsel.

21 In witness whereof, I have hereunto set
22 my hand and seal of office at the County and State of
23 New York this 10th day of April, 1991.

24 Wendy D. Boskind
25 WENDY D. BOSKIND
170322267

1 Jewell

2 Q Back around the time of this document,
3 November of '86, was pricing and delivery of
4 machinery within your area of responsibility?

5 A No.

6 Q When did pricing and delivering of
7 machinery come within your area of
8 responsibilities? If it ever did.

9 A 1987.

10 Q When you became director of
11 engineering; is that right?

12 A Correct.

13 MR. SECREST: It is 5:00, that's when
14 you wanted to quit.

15 What time do want to start tomorrow?

16 (Discussion off the record.)

17 (Whereupon, at 5:00 p.m., the
18 proceedings were adjourned as above set forth.)

19

20

21 _____
JOHN NOLAN JEWELL

22

23 Subscribed and sworn to before me

24 this _____ day of _____ 1991.

25 _____

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JEWELL

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

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